



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: BCS - 176029

PRELIMINARY RECITALS

Pursuant to a petition filed August 5, 2016, under Wis. Stat., §49.45(5)(a), to review a decision by the Juneau County Dept. of Human Services to deny Medical Assistance (MA), a hearing was held on September 20, 2016, by telephone.

The issue for determination is whether petitioner was eligible for MA under “gap filling” policy.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Juneau County Dept. of Human Services
220 E. LaCrosse Street
Mauston, WI 53948

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Juneau County.
2. Petitioner was eligible for BadgerCare Plus (BC+) MA from November, 2015 through June, 2016. He reported new employment earning \$16 per hour in late May. The employment was expected to be for 14 weeks during the summer, after which petitioner would return to school full time. He had similar employment in 2015.

3. By a notice dated May 31, 2016, the county informed petitioner that BC+ would end July 1, 2016 because income was over the limit.
4. Petitioner applied for insurance at the Federal marketplace and was denied eligibility for a subsidy because his yearly income was too low. He sent a copy of the denial to the county. The county worker then inquired with the state agency about gap filling MA eligibility. The state office responded that petitioner's income was too high for gap filling, with no other explanation or notice.
5. Petitioner's yearly income in 2015 was \$11,204. His expected 2016 income is the same or less.

DISCUSSION

Petitioner filed this appeal to contest the denial of his gap filling BC+ application. The policy is described in the BC+ Handbook, §16.1.4. It is noted that while BC+ "MAGI" rules base eligibility on current monthly income, the Marketplace uses prospective annual income to determine eligibility for a Marketplace subsidy. The "gap" occurs when both programs deny eligibility due to the difference in determining income. Thus it is acknowledged that a person could be below 100% of the FPL for subsidy purposes, but above 100% for BC+ purposes.

The Handbook provides at §16.1.4.1:

Local agencies should contact the DHS CARES Call Center when an individual has applied at the Marketplace and has received a notice indicating that they can purchase health insurance but cannot get an APTC [Advanced Premium, Tax Credit], and has also been denied BadgerCare Plus because of monthly income above 100% FPL.

The CARES Call Center will confirm whether the individual meets the criteria for gap filling certification. If so, the CARES Call Center will add a case comment to CWW [CARES Worker web]. EM CAPO [Enrollment Management Central Application Processing Operation] will then manually certify the member, track his or her individual enrollment outside of CWW, and serve as the point of contact for that member's eligibility under gap filling rules. The EM CAPO will send a notice of decision informing the individual of his or her eligibility and change reporting rules. Changes for that individual will be reported to and processed by the EM CAPO while he or she is eligible under gap filling rules.

In this case petitioner's monthly income was reported to be over the monthly BC+ limit of \$990. However, when petitioner applied at the Marketplace he was denied a subsidy because his expected yearly income was too low. It appears that petitioner fits squarely into the gap filling policy. His expected yearly income was below \$11,800 (which is the BC+ monthly income limit of \$990 times twelve). However, his monthly income while working was above \$990.

I cannot fathom why the central office denied eligibility for gap filling. I note that the EM CAPO did not send petitioner a notice as required by the Handbook provision. Petitioner's representative, Mr. [REDACTED], testified that he works with individuals like petitioner regularly and that in his experience the denial is inexplicable. Mr. [REDACTED] also had no explanation for the denial, as the county simply received a note with no other explanation saying that petitioner's income was too high. We now know, since petitioner's employment has ended, that his 2016 income was \$10,449.76, below the yearly income amount as expected.

I conclude that the agency erred by denying gap filling MA. I will remand to the county with instructions to process eligibility retroactive to July 1, 2016.

CONCLUSIONS OF LAW

The agency erred by denying gap filling MA to petitioner after his employment income rose above the monthly BC+ limit.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to grant petitioner's gap filling BC+ MA retroactive to July 1, 2016, within 10 days of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 26th day of September, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 26, 2016.

Juneau County Department of Human Services
Division of Health Care Access and Accountability